

TEWKESBURY BOROUGH COUNCIL

Report to:	Executive Committee
Date of Meeting:	12 July 2017
Subject:	Community Infrastructure Levy – Statement of Modifications
Report of:	Annette Roberts, Head of Development Services
Corporate Lead:	Robert Weaver, Deputy Chief Executive
Lead Member:	Lead Member for Built Environment
Number of Appendices:	One

Executive Summary:

The Community Infrastructure Levy (CIL) Draft Charging Schedule was submitted to the Planning Inspectorate in July 2016. Following changes to Strategic Allocations within the Joint Core Strategy, revisions are now required to the Draft Charging Schedule through the publication of a Proposed Statement of Modifications. This report seeks Council approval to undertake public consultation on the Proposed Statement of Modifications and approval to compile and submit responses received to the CIL Examiner for examination. Cheltenham Borough and Gloucester City Councils will also be consulting on their Proposed Statements of Modifications.

Recommendation:

That it be RECOMMENDED TO COUNCIL:

- 1) That the Community Infrastructure Levy Proposed Statement of Modifications at Appendix 1 be APPROVED for public consultation.**
- 2) That authority be delegated to the Deputy Chief Executive, in consultation with the Lead Member for the Built Environment, to amend the Proposed Statement of Modifications at Appendix 1 and prepare any further statements of modification that may be required following the JCS hearings and/or any further viability assessments undertaken.**
- 3) That the Deputy Chief Executive be authorised to agree the date of public consultation(s) with Cheltenham Borough and Gloucester City Councils.**
- 4) That the Deputy Chief Executive, following the conclusion of the public consultation(s), be authorised to compile and submit responses received to the CIL Examiner for examination.**

Reasons for Recommendation:

The development of a CIL Charging Schedule enables the Council to ensure that new development contributes proportionately to infrastructure provision whilst taking into account the need to strike an appropriate balance which does not threaten viability.

If the CIL Draft Charging Schedule were to go to the CIL Examiner unmodified it would not reflect the current state of the JCS and consultees would not have been able to have their say on the latest version of the schedule and the sites within it.

Resource Implications:

The cost of implementing CIL going forward has been estimated at £180,000 between the three Joint Core Strategy (JCS) authorities, to be shared equally between the three Joint Core Strategy (JCS) authorities. Tewkesbury's contribution will cover the following requirements:

Staffing costs £30,000; and

IT system for the administration and management of CIL £30,000.

The CIL Regulations provide for Charging Authorities to recover their administrative costs from CIL income, up to a total of 5% of the annual CIL income. In addition, before adoption set up costs can be included in this recovery. As the CIL income in the first few years most likely will be variable, the 5% is averaged over the remaining time of the first year from implementation, plus the next full three years. The fourth year therefore, is the first year where the 5% administrative costs will be an 'annual amount'.

The anticipated CIL income over the first three years between the JCS authorities is in the region of £13 million.

Legal Implications:

The formal procedure for the setting and adoption of CIL charges is set out in Part 11 of the Planning Act 2008 and the Community Infrastructure Regulations 2010 (the requirements of which, so far as they relate to the drafting of the charging schedule, are known collectively as "the drafting requirements").

Under the drafting requirements, a Charging Authority (the local planning authority) which proposes to charge CIL must, after having prepared and consulted upon a Preliminary Draft Charging Schedule, prepare a Draft Charging Schedule (DCS) and then formally publish the DCS together with the appropriate available evidence on infrastructure costs, other funding sources and economic viability for consultation for a minimum period of four weeks.

After the close of the consultation process, the Charging Authority must then submit the DCS for public examination before an independent person.

There is a "Statement of Modifications" process available in respect of amending a DCS prior to submission to examination and the process is also utilised in respect of proposed modifications to a DCS subsequent to submission. The statement of modifications must be sent to each of the consultation bodies that were invited to make representations on the Preliminary Draft Charging Schedule and must be published on the local planning authority's website.

Substantive changes should be avoided, unless they have been sufficiently consulted upon; with Charging Authority's taking steps they consider necessary to inform people who were invited to make representations on the DCS that the statement of modifications has been published.

Anyone who makes representations about a DCS can, if that person so requests at the time of

making a representation on the DCS, be heard by the examiner. Similarly, a period of four weeks is to be available for any person to make representations and requests to be heard on any published modifications. The examination will consider whether the drafting requirements have been complied with, including whether there has been due regard to the actual and expected costs of infrastructure, economic viability of development and other actual and expected sources of funding for infrastructure.

Risk Management Implications:

Failure to develop a CIL Charging Schedule would reduce the Council's ability to ensure that new development contributes proportionately to infrastructure provision in the longer term. The Council will also continue to utilise Section 106 Agreements to secure appropriate infrastructure contributions, where appropriate.

Failure to adopt a CIL in the longer term means that the Council could be disadvantaged by the changes to Section 106 which took effect on 6 April 2015, which limit the pooling of contributions for the infrastructure needed to support new development, and could result in a significant loss of contributions towards infrastructure until such time as a CIL is adopted.

Performance Management Follow-up:

Monitoring reports will be provided through the quarterly Performance Tracker.

Once in place, CIL will be required to be closely monitored and the Charging Schedule kept under review, ensuring that levy charges remain appropriate over time.

Environmental Implications:

Poor-quality infrastructure – owing to underfunding or resource constraints - will not assist in mitigating the effects of climate change and may exacerbate existing problems. For example, under-provision of transport infrastructure may increase congestion and exhaust emissions. The development of the CIL would take into account the three dimensions of sustainable development set out in the National Planning Policy Framework (NPPF):

- An economic role – contributing to building a strong, responsive and competitive economy.
- A social role – supporting strong, vibrant and healthy communities.
- An environmental role – contributing to protecting and enhancing our natural, built and historic environment.

1.0 INTRODUCTION/BACKGROUND

1.1 The Joint Core Strategy (JCS) authorities (Tewkesbury, Cheltenham and Gloucester) have been working towards adopting CIL alongside the JCS. The Community Infrastructure Levy (CIL) will allow the Councils to raise funds from developers undertaking new developments to fund a wide range of infrastructure that is needed to support new development such as road improvements and schools. As almost all development has some impact on the need for infrastructure, services and amenities CIL is a more effective, quicker and fairer system to fund new infrastructure. CIL will replace the majority of Section 106 Planning Obligations however; Section 106 will still be used to deliver affordable housing provision and site-specific mitigation measures. For Strategic Allocations, the majority of required infrastructure will still be funded through Section 106 Planning Obligations process.

1.2 The proposed CIL rates are set out within the Draft CIL Charging Schedule which was submitted to the Planning Inspectorate for Examination on 29 July 2016. The CIL charges are set out within each authority's CIL Drafting Charging Schedule, which

provides details on the CIL charges for different types of development. An independent Planning Inspector has been appointed to preside over the Examination into the CIL Charging Schedule; this is the same Inspector who is dealing with the Joint Core Strategy (JCS). The CIL Hearings will take place sometime after the JCS Hearings.

2.0 AMENDMENTS REQUIRED FOLLOWING THE JCS HEARINGS

2.1 Following the hearings on the JCS in 2016, the Planning Inspector published an Interim Report. This report set out that in order for the JCS to be found sound further work was required and a number of recommendations were made. This included:

- increasing the level of housing provision from 30,500 to 35,175; and
- the deletion of the North Churchdown and Leckhampton strategic allocations from the plan.

In October 2016, it was confirmed that the majority of MOD Ashchurch would no longer be available for development for at least the next ten years.

2.2 With the removal of these three sites as strategic allocations and the increase in the required housing provision the following sites have been added as strategic allocations within the Proposed Main Modifications JCS. These are:

- West Cheltenham;
- Twigworth; and
- Winnycroft.

2.3 Winnycroft was previously included as a site for housing development but through the Gloucester City Local Plan but was not previously a strategic allocation.

2.4 These additional sites had not been assessed in terms of the level of infrastructure required, their viability or their ability to pay a CIL charge in the Draft Charging Schedules that were submitted to the CIL Examiner, with those Draft Charging Schedules having reflected the strategic allocations as existing prior to the Proposed Main Modifications JCS.

2.5 The JCS authorities have commissioned Peter Brett Associates (PBA) to complete a viability study on these additional sites in consultation with developers and these (save in respect of Winnycroft, which is currently in hand) are available on the JCS website. Appendix 1 indicates the potential CIL rate applied to all Strategic Allocations and anticipated affordable housing provision based on JCS requirements.

3.0 PROPOSED MODIFICATIONS TO THE DRAFT CIL CHARGING SCHEDULES

3.1 Given the changes to the JCS strategic allocations, the Draft CIL Charging Schedules for each JCS Authority require amending before an Examination can take place. The JCS authorities have received legal advice setting out that the most appropriate way forward is to produce a 'Statement of Modifications' to each Draft Charging Schedule before the examination and to consult on these statements for a period of four weeks. The statement contained within Appendix 1, sets out the following modifications:

- (a) The addition/deletion of strategic allocations as recommended by the JCS Inspector.
- (b) The inclusion of maps showing the boundaries of Strategic Allocations (as required by the CIL Regulations).
- (c) A section setting out how the CIL charge will be calculated (as required by the

CIL Regulations).

4.0 NEXT STEPS

4.1 Once the three Councils have each approved the Statement of Modifications for their respective Draft Charging Schedules the proposed timetable is as follows:-

- Consultation for 4 weeks commencing – late July/early August 2017.
- Examination – anticipated October 2017.
- Adoption – January 2018.

5.0 IMPLEMENTATION AND RESOURCING

5.1 In order to implement CIL, the JCS authorities will be required to implement a system for the collection and administration of CIL to include the recruitment of two Officers to manage CIL and S106 Planning Obligations, the financial costs associated with this are estimated to equate to £60,000 for each authority.

5.2 The CIL Regulations allow Councils to claw back reasonable costs in preparing and implementing CIL, by allowing them to reclaim 5% of the total CIL revenue for the first three years that CIL is levied. In addition to this, the CIL Regulations make provision for Councils to use up to 5% of each year's CIL revenue to offset the CIL administrative costs of charging a CIL for that year which will be used to cover the additional staff costs for the collection and administration of CIL. This covers the years following the initial three year period and can continue to be recovered for as long as the CIL is being charged.

5.3 In considering the relative costs of preparing CIL, it should be noted that they will have to be borne up front; the retrieval of these costs will only be realised once the CIL Schedule is implemented. Therefore the JCS authorities will have to bear the costs of preparation before any costs can be clawed back.

5.4 The JCS Authorities projections for CIL income is in the region of £13 million in the first three years and therefore the additional cost of a new system and additional staff resources should be able to be retrieved during that period.

6.0 OTHER OPTIONS CONSIDERED

6.1 At the early stages of considering CIL, an option not to implement CIL and continue to rely only on negotiations of S106 was investigated. However, the restrictions put in place which limit the ability to pool receipts from S106, would be likely to result in loss of resources to fund identified infrastructure needs. The use of CIL would address this loss of resources towards the funding gap for future infrastructure.

7.0 CONSULTATION

7.1 Public consultation took place on a Preliminary Draft Charing Schedule from 29 May to 10 July 2015. Comments received have fed into the Draft Charging Schedule. A consultation took place on the Draft Charging Schedule from 13 May 2016 to 24 June 2016. A workshop with the development industry has also taken place.

8.0 RELEVANT COUNCIL POLICIES/STRATEGIES

- 8.1** Pre-Submission Joint Core Strategy.
Proposed Main Modifications Joint Core Strategy.

9.0 RELEVANT GOVERNMENT POLICIES

- 9.1** Planning Act 2008.
CIL Regulations 2010.
National Planning Practice Guidance – Community Infrastructure Levy.

10.0 RESOURCE IMPLICATIONS (Human/Property)

- 10.1** Officer time in considering the issues raised as part of the CIL procedures.
- 10.2** No direct implications, but property colleagues will need to be aware of the potential introduction of the Community Infrastructure Levy described in this report.

11.0 SUSTAINABILITY IMPLICATIONS (Social/Community Safety/Cultural/ Economic/ Environment)

- 11.1** The overall purpose of the Community Infrastructure Levy (CIL) is *“to ensure that costs incurred in supporting the development of an area can be funded (wholly or partly) by owners or developers of land in a way that does not make development of the area economically unviable”*.

The development of the CIL would take into account the three dimensions of sustainable development set out in the National Planning Policy Framework (NPPF):

- An economic role – contributing to building a strong, responsive and competitive economy.
- A social role – supporting strong, vibrant and healthy communities.
- An environmental role – contributing to protecting and enhancing our natural, built and historic environment.

12.0 IMPACT UPON (Value For Money/Equalities/E-Government/Human Rights/Health And Safety)

- 12.1** None.

13.0 RELATED DECISIONS AND ANY OTHER RELEVANT FACTS

- 13.1** 14 April 2015 Council decision to approve CIL Preliminary Draft Charging Schedule for consultation.
19 April 2016 Council decision to approve CIL Draft Charging Schedule for publication and submission to examination.

Background Papers: None.

Contact Officer: Jonathan Dibble, Joint Core Strategy Programme Manager.

Appendices: One – CIL Proposed Statement of Modifications and Maps.